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UNITED STATES OF AMERICA

12 UNITED STATES DISTRICT COURT

13 FOR THE CENTRAL DISTRICT OF CALIFORNIA

14 UNITED STATES OF AMERICA,

15 Plaintiff,

16 v.

17 ANDREW ARCHIE REYES,

18 Defendant.

No. CR 22-00046-MCS

GOVERNMENT'S OPPOSITION TO  
DEFENDANT'S MOTION TO COMPEL  
DISCOVERY

Hearing Date: August 26, 2024

Hearing Time: 11:00 a.m.

Courtroom: Courtroom of the  
Hon. Steven V.  
Wilson

21 Plaintiff United States of America, by and through its counsel  
22 of record, the United States Attorney for the Central District of  
23 California and Assistant United States Attorneys Thomas J. Magaña and  
24 Jehan M. Pernas, hereby files its opposition to defendant Andrew  
25 Archie Reyes' motion to compel discovery (Dkt. 71). This opposition  
26 is based upon the attached memorandum of points and authorities, the  
27  
28

1 files and records in this case, and such further evidence and  
2 argument as the Court may permit.

3  
4 Dated: August 16, 2024

Respectfully submitted,

5 E. MARTIN ESTRADA  
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9 /s/ Thomas J. Magaña

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 The government has been responsive to defendant's discovery  
4 requests, regarding (1) additional video recordings from the social  
5 security office, (2) impeachment material for J.P., (3) the face mask  
6 policy at the Social Security Administration ("SSA") and the FPS, (4)  
7 Mr. Reyes' entire Social Security Administration File, and (5) Grand  
8 Jury transcripts. At a meet and confer on August 8, 2024, the  
9 government updated defense counsel on these discovery requests  
10 detailed in their motion to compel, and following their motion to  
11 compel, the government has continued to be in contact with counsel  
12 and informed them (1) that there are no further video recordings from  
13 the SSA beyond those provided, (2) that the government has complied  
14 with its Giglio/Henthorn obligations regarding J.P., (3) that the  
15 government has provided all documentation in its possession regarding  
16 the mask requirement at the SSA, and (4) how to obtain any and all  
17 documents related to Mr. Reyes from the SSA. In short, the  
18 government has complied with its discovery obligations, and  
19 defendant's motion should be denied.

20 **A. Background**

21 Defendant Andrew Reyes assaulted security guard J.P. on February  
22 10, 2023. In a brief interaction that lasted under two minutes, and  
23 has been fully captured on video<sup>1</sup>, defendant Andrew Reyes  
24 ("defendant") approached the front door of the Ventura Social  
25 Security Administration Office ("SSA"). At the front entrance, J.P.,  
26 a security guard employed by Paragon Systems and contracted to assist  
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<sup>1</sup> There is no audio.

1 the Federal Protective Service, provided defendant with a mask, which  
2 at that time was required to enter the facility. Defendant refused to  
3 wear the mask, grew upset, cursed at J.P., flung the mask at him, and  
4 struck J.P. in the shoulder with his fist. J.P. attempted to detain  
5 the defendant and a struggle ensued, during which J.P. pepper sprayed  
6 the defendant and the defendant grabbed J.P.'s baton and struck him  
7 multiple times. J.P. then drew his service weapon and pointed it at  
8 the ground, and defendant, feeling the effects of the pepper spray,  
9 relinquished the baton, and sat down.

10 On April 14, 2023, the government charged defendant in a single  
11 count indictment for violating 18 U.S.C. § 111(a)(1), (b) (Assault on  
12 a Person Assisting Federal Officers and Employees Using a Dangerous  
13 and Deadly Weapon, Resulting in Bodily Injury).

14 **B. Discovery**

15 Since defendant's arrest, the government has produced video  
16 footage of his assault on J.P. from two different cameras (as well as  
17 footage from nine other cameras on the property), video footage from  
18 the body camera videos of the Ventura Police Department ("VPD") who  
19 responded to the incident, and video recordings of defendant's  
20 mirandized interview. It has further produced over 6,000 pages of  
21 other discovery, including photos from the scene, law enforcement  
22 reports, witness statements, defendant's prior arrest reports and  
23 certified conviction records, social security documentation of his  
24 prior threats and misconduct at social security offices, the contents  
25 of his phone, and the operative contract and post orders for  
26 protective security officers at the Ventura SSA, among many other  
27 items.

1 On August 8, 2024, defendant filed a motion to compel five  
2 categories of discovery. As explained below, defendant's motion is  
3 meritless as to each category or is already moot.

4 Defense Request 1: All video (and audio) recordings of  
5 public areas at the Ventura Social Security Office,  
6 beginning 10 minutes before, and continuing 10 minutes  
after, the February 10, 2023 incident between Mr. Reyes and  
the complaining witness, J.P.;

7 The government has produced the full video of defendant's  
8 assault on J.P. and all related interactions. The Social Security  
9 Office Surveillance video is 27 minutes long, begins approximately  
10 one minute before defendant approaches the SSA doorway, and concludes  
11 after he departs the scene in police custody. See USAO\_006658. The  
12 Government has also produced security video from ten different  
13 OmniNet Property Management cameras on the property, some of which  
14 show defendant walking across the property toward the social security  
15 office, as well as his assault of J.P., and its aftermath. This video  
16 begins approximately five minutes before his assault and continues  
17 for approximately twenty minutes thereafter. See USAO\_006160.  
18 Defendant's demand for video footage of the inside of the Ventura SSA  
19 is not relevant to this case, as defendant never entered the Ventura  
20 SSA, and his entire interaction with J.P. is captured on an exterior  
21 camera. Defendant's demand for an adverse jury instruction on this  
22 subject is therefore meritless.

23 Defense Request 2: Any and all impeachment material from  
24 the personnel file of the complaining witness, J.P., who  
25 was a Paragon security officer stationed at the Ventura  
Social Security Office

26 The Government has complied with its Giglio/Henthorn obligations  
27 and notified the defense that there is no information responsive to  
28 this request.

1 Defense Request 3: The face mask policy in effect at the  
2 Ventura Social Security Office on February 10, 2023, and  
3 any related policies promulgated by the Social Security  
Administration as to the enforcement of any such policy at  
the Ventura Office

4 The government has provided the defense with a photos of the  
5 sign posted at the doorway where J.P. was standing on the day of  
6 defendant's assault, which states clearly in block text: "ATTENTION  
7 VISITORS YOU MUST WEAR A FACEMASK AT ALL TIMES," (USAO\_006613; Magaña  
8 Decl. Ex. A), as well as the PSO Post Orders in effect on the date of  
9 the incident, which state "PSO [Protective Security Officer] will  
10 instruct visitors to maintain physical distancing and to wear a  
11 mask." (USAO\_000110). The government has further provided the defense  
12 with electronic copies of multiple covid-related signs provided by  
13 the SSA. (Magaña Decl. Ex. B). These documents more than make clear  
14 that the Ventura SSA required all customers to wear a mask on the  
15 date that defendant assaulted J.P. Defendant has not explained what  
16 relevance any further documents on this subject might have, and this  
17 request seeks evidence that is cumulative if not irrelevant.  
18 Nevertheless, the government has requested that SSA OIG provide any  
19 further documents responsive to this request, and will provide  
20 anything further it receives from the SSA.

21 Defense Request 4: Mr. Reyes's entire file maintained by  
22 the Social Security Administration.

23 These documents are freely available to the defendant upon his  
24 request, and are not in the government's exclusive possession. The  
25 government has already produced all files related to the defendant  
26 that were in the custody of the Ventura Social Security Office, and  
27 has provided defendant with the appropriate form to request any  
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1 category of his records from the SSA more broadly, and also offered  
2 to help expedite the request.

3 Defense Request 5: All transcripts of testimony before the  
4 grand jury.

5 None of the government's trial witnesses testified before the  
6 grand jury. Defendant has not met his burden to demonstrate a  
7 particularized need for grand jury transcripts.

8 Accordingly, the government has complied with its discovery  
9 obligations and defendant's motion should be denied.

## 10 **II. LEGAL STANDARD**

11 Criminal discovery arises from three primary sources. First,  
12 F.R.C.P. 16 establishes guidelines for pretrial production by the  
13 government of certain limited materials. Second, under Brady v.  
14 Maryland, 373 U.S. 83 (1963), and its progeny, including Giglio v.  
15 United States, 405 U.S. 150 (1972), the government is obliged to turn  
16 over to the defense evidence in its possession that is exculpatory or  
17 favorable to the defendant. Finally, under 18 U.S.C. § 3500 and  
18 Federal Rule of Criminal Procedure 26.2, both parties must disclose  
19 prior statements by witnesses after the witness has testified. None  
20 of these sources authorize "fishing expeditions" or sweeping discovery  
21 requests. United States v. Bagley, 473 U.S. 667, 675 (1985); see  
22 also United States v. Agurs, 427 U.S. 97, 106 (1976) ("there is, of  
23 course, no duty to provide defense counsel with unlimited discovery  
24 of everything known by the prosecutor").

25 Rule 16 imposes discovery obligations upon both the government  
26 and the defendant. Rule 16(a)(1) lists five categories of materials  
27 that must either be produced or made available for inspection, most  
28 relevant here: documents and objects in the possession of the

1 government that are material to the preparation of the defense or  
2 intended to be used in the government's case-in-chief. With respect  
3 to this category, Rule 16(a)(1)(E)(i) states that a defendant is  
4 entitled to discovery of such items if they are "within the  
5 government's possession, custody or control" and the defendant can  
6 show they are "material to preparing the defense."<sup>2</sup> Information is  
7 in the prosecutor's "possession" if it is held by members of the  
8 prosecution team, such as investigating agents, or if it is held by  
9 other executive branch agencies and the prosecutor has "knowledge of  
10 and access to" the evidence. United States v. Bryan, 868 F.2d 1032,  
11 1036 (9th Cir. 1989)

12 Discovery in criminal cases is limited. Indeed, "[t]here is no  
13 constitutional right to discovery in a criminal case." Weatherford  
14 v. Bursey, 429 U.S. 545 (1977). To obtain discovery under Rule 16, a  
15 defendant must make a prima facie showing of materiality. This  
16 "requires a presentation of facts which would tend to show that the  
17 [g]overnment is in possession of information helpful to the defense."  
18 United States v. Stever, 603 F.3d 747, 752 (9th Cir. 2010). "A  
19 general description of the materials sought or a conclusory argument  
20 as to their materiality is insufficient to satisfy the requirements  
21 of [Rule 16(a)(1)(E)(i)]." United States v. Cadet, 727 F.2d 1453,  
22 1468 (9th Cir. 1984) (quoting United States v. Conder, 423 F.2d 904,  
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25 <sup>2</sup> Effective December 1, 2013, Rule 16(a)(2) was amended to  
26 clarify information that is not subject to disclosure. Notably,  
27 discovery or inspection of reports, memoranda or other internal  
28 government documents made by a government attorney or other  
government agent investigating or prosecuting the case are not  
discoverable, except as permitted in Rule 16(a)(1)(A) through (D),  
(F) and (G). Fed. R. Crim. P. 16(a)(2). The rule also clarifies  
that statements made by prospective government witnesses are not  
discoverable except as provided in the Jencks Act. Id.



1 910 (6th Cir. 1970) (defendant's discovery request that sought  
2 documents the government did not intend to use at trial was too far  
3 ranging and potentially burdensome)); see also United States v.  
4 Muniz-Jaquez, 718 F.3d 1180, 1183 (9th Cir. 2013) ("General  
5 descriptions of information sought and conclusory allegations of  
6 materiality are insufficient."). "The government has no obligation  
7 to produce information which it does not possess or of which it is  
8 unaware." Sanchez v. United States, 50 F.3d 1448, 1453 (9th Cir.  
9 1995). "[A] federal prosecutor need not comb the files of every  
10 federal agency which might have documents regarding the defendant in  
11 order to fulfill his or her obligations under [Rule 16]." United  
12 States v. Bryan, 868 F.2d 1032, 1036 (9th Cir. 1989); see also Kyles  
13 v. Whitley, 514 U.S. 419, 437 (1995) ("We have never held that the  
14 Constitution demands an open file policy . . . .").

15 The government's disclosure obligations under Brady and Giglio  
16 apply only to material and favorable evidence. United States v.  
17 Ruiz, 536 U.S. 622, 629 (2002) (noting that "the Constitution does  
18 not require the prosecutor to share all useful information with the  
19 defendant"). The government continues to comply with its Brady  
20 obligations in this case, but Brady does not require the government  
21 to disclose every scrap of evidence that could conceivably benefit a  
22 defendant. Moore v. Illinois, 408 U.S. 786, 795 (1972).

### 23 **III. ARGUMENT**

#### 24 **A. The Government Has Produced All Video and Audio Recordings** 25 **of Defendant's Assault on J.P., and Defendant's Demand for** 26 **Further Recordings Seeks Irrelevant Evidence**

27 On March 26, 2023, the government produced surveillance video of  
28 Mr. Reyes' assault on J.P. in a pre-indictment production.

1 (USAO\_Early\_000001). Shortly thereafter, on April 30, 2023, the  
2 government produced additional video from ten OmniNet surveillance  
3 cameras in the same complex showing different views of the building  
4 during the relevant time, including the defendant's approach to the  
5 SSA, and a second camera angle on the assault as it took place (as  
6 well as the ensuing police response). (USAO\_006160). This video  
7 begins approximately five minutes before defendant assaulted J.P.,  
8 and continues for approximately 20 minutes afterward. The government  
9 also produced the body camera videos of the Ventura Police Officers  
10 (VPD) who responded to the incident (USAO\_006161-6169), and video  
11 recordings of defendant's mirandized interview (USAO\_006155-6157). On  
12 August 9, 2024, in response to defense requests, the government  
13 obtained and produced a longer, 27-minute version of the original  
14 video from the social security office exterior camera, beginning  
15 approximately one minute before defendant approached the social  
16 security office, and continuing for approximately another twenty-five  
17 minutes following the assault until defendant was taken away in  
18 police custody. (USAO\_006658). This is all the video in the  
19 government's possession or to which it has access, and all the video  
20 that has been preserved from the day of the event.

21 The government does not have video of the interior of the  
22 Ventura SSA in its possession, and such video is neither material nor  
23 relevant to this case because the defendant never entered the Ventura  
24 SSA. Defendant's first argument on this subject, that footage of the  
25 inside lobby is material because it would "show[] the entire  
26 interaction between Mr. Reyes and J.P[.]" (Def's Mot. to Compel  
27 ("Mot." at 4), is therefore demonstrably false. The entire  
28 interaction—from Mr. Reyes walking across the parking lot and up to

1 the entrance, to his being removed in a police vehicle—is captured on  
2 two separate cameras, and at no point does defendant ever enter the  
3 building. Interior video footage would therefore reveal nothing at  
4 all about defendant's interaction with J.P.

5 Next, defendant argues that video of the interior of the  
6 building is material because it will "show[] what Mr. Reyes may have  
7 seen and been responding to when he encountered J.P." (Id.) As a  
8 threshold issue, it is already clear what defendant is responding to  
9 from the video: J.P. hands defendant a facemask, and then defendant  
10 throws it at J.P.'s face before punching him. The entire sequence of  
11 events from J.P.'s arrival at the door to his punching J.P takes  
12 approximately fourteen seconds, during which time defendant also  
13 throws the mask and briefly walks away. (See USAO\_006658). The video  
14 makes clear that defendant was not responding to anything except the  
15 fact that J.P. told him he needed to wear a facemask in accordance  
16 with the posted sign.

17 The defense argues, however, that the interior video is material  
18 because Mr. Reyes stated during his interview that "'they already had  
19 someone laid out on the floor [inside the office]' and that was why  
20 'they [J.P.] didn't wanna even let me in there,'" (Mot. at 4.). As  
21 the full text of those interview statements makes clear, however, law  
22 enforcement had good reason for not finding defendant's assertions  
23 credible, as defendant repeatedly claimed he had been deliberately  
24 ambushed by a group of people at the SSA who were hostile to him:

25 Officer Vasquez: "what's that ten minute before and ten  
26 minute after going to show us?"

27 Defendant: "I'm pretty sure it'll show you that it was all  
28 planned, everything they did was planned. Everything,  
everything. They already had someone laid out on the floor

1 they wouldn't even let me in there. Alright? That's why I  
2 want you to get the video.

3 (USAO\_006159, 3:20-3:35). Defendant reiterates his assertion  
4 that he was the victim of a concerted plan again the next time he  
5 raises the subject of cameras:

6 All you gotta do is pull up the cameras man, you guys'll  
7 see that it was all [expletive] planned, everything they  
8 did, there's a whole group of people there, the lady was  
9 screaming and yelling we're the ones taking you. Just pull  
10 up the camera audio and video and you guys'll see.

11 (Id. at 10:53-11:07). Defendant's insistence that he had been  
12 caught in a pre-planned ambush appears to have been connected to his  
13 larger belief that there are people with a vendetta against him at  
14 the social security office:

15 Defendant: I've been fighting with the social security  
16 office and a group of officers and a group of people for  
17 four years over them telling me that I'm not who I am.

18 (Id. at 2:10-2:15). While law enforcement may sometimes follow  
19 up on an investigate lead provided by a defendant, they are not  
20 required to indulge a defendant in what is clearly a fantasy,  
21 particularly in this case, where they were fully aware defendant had  
22 never entered the Ventura SSA. Defendant's second claimed basis for  
23 materiality, therefore—that the interior cameras are relevant because  
24 defendant thinks he saw something going on in the office that somehow  
25 influenced his behavior—also fails.

26 Finally, no further video is available. Because defendant never  
27 entered the Ventura SSA and the interior video was not relevant to  
28 this case, video of the interior of the office was not preserved.  
Security surveillance video at the Ventura SSA is overwritten after  
between 30 and 45 days. In this case, that would have been on March  
26, 2023, at the latest (45 days after February 10, 2023). By the

1 time defense counsel requested additional video on April 19, 2023  
2 (Mot. at 1), therefore, any video not already preserved from the date  
3 of the incident would have been overwritten approximately a month  
4 earlier. Because any additional video evidence would show nothing  
5 pertinent to this case, however, defendant's request for an adverse  
6 jury instruction (made in a footnote) is without merit, and the Court  
7 should deny it.<sup>3</sup>

8 **B. The Government Has Produced All Evidence in Its Possession**  
9 **Related to the Face Mask Policy at the Ventura SSA, and Any**  
10 **Further Production Will be Cumulative**

11 The government has provided the defense with photos of the signs  
12 posted at the doorway where J.P. was standing on the day of  
13 defendant's assault, which states clearly in block text: "ATTENTION  
14 VISITORS YOU MUST WEAR A FACEMASK AT ALL TIMES," (USAO\_006613; Magaña  
15 Dec. Ex. A), as well as the PSO Post Orders in effect on the date of  
16 the incident, which state "PSO [Protective Security Officer] will  
17 instruct visitors to maintain physical distancing and to wear a  
18 mask." (USAO\_000110). The government has further provided the defense  
19 with electronic copies of multiple covid-related signs issued for  
20 posting at the SSA. (Magaña Decl. Ex. B). These documents more than  
21 make clear that the Ventura SSA required all customers to wear a mask  
22 on the date that defendant assaulted J.P.<sup>4</sup> Defendant has not  
23 explained what relevance any further documents on this subject might  
24 have, and this request seeks evidence that is cumulative if not

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25 <sup>3</sup> Defendant's motion does not explain its basis for seeking an  
26 adverse jury instruction, and the government reserves the right to  
respond fully should defendant make such an argument.

27 <sup>4</sup> Compliance with posted signs is also required by 41 CFR 102-  
28 74.385 ("Persons in and on property must at all times comply with  
official signs of a prohibitory, regulatory or directory nature and  
with the lawful direction of Federal police officers and other  
authorized individuals.")

1 irrelevant. Nevertheless, the government has requested that SSA OIG  
2 provide any further documents responsive to this request, and will  
3 provide anything further it receives from the SSA.

4 **C. The Government Has Produced All Material from the**  
5 **Defendant's SSA File In Its Possession**

6 Defendant has requested all materials from the defendant's  
7 social security file. While it is unclear how any of these  
8 additional materials are relevant in any way to defendant's assault  
9 of J.P., regardless, as noted above, the government has already  
10 produced all files related to the defendant that were in the custody  
11 of the Ventura Social Security Office. Additionally, the government  
12 has provided defendant with the appropriate form to request any  
13 category of records he wishes from SSA more broadly, and has further  
14 offered to help expedite defendant's request. Consequently, this  
15 issue has already been addressed.

16 **D. Defendant is Not Entitled to Grand Jury Transcripts**

17 Defendant has to show that there is a "particularized need" for  
18 disclosure of grand jury materials under Rule 6(e), but fails to  
19 demonstrate any such need beyond speculating that perhaps there may  
20 be impeachment material in the transcripts. The government is aware  
21 of its Jencks obligations, and has informed defendant that none of  
22 the government's witnesses at trial testified in grand jury.

23 Grand jury secrecy is governed by Federal Rule of Criminal  
24 Procedure 6(e) and by more than a century of jurisprudence holding  
25 that the reasons for grand jury secrecy are "compelling" given that  
26 the grand jury is a cornerstone of the criminal justice system,  
27 holding a "'high place . . . as an instrument of justice.'" Pittsburgh Plate Glass Co. v. United States, 360 U.S. 395, 399 (1959)  
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1 (quoting Costello v. United States, 350 U.S. 359, 362 (1956)). As  
2 the Supreme Court explained in Pittsburgh Plate Glass, the grand jury  
3 is "convened as a body of laymen, free from technical rules, acting  
4 in secret, pledged to indict no one because of prejudice and to free  
5 no one because of special favor." 360 U.S. at 400 (internal  
6 quotation marks omitted). "To make public any part of its  
7 proceedings would inevitably detract from its efficacy," as "[g]rand  
8 jurors would not act with that independence required of an accusatory  
9 and inquisitorial body." Id.; see also Douglas Oil Co. of Cal. v.  
10 Petrol Stops Nw., 441 U.S. 211, 218 (1979) ("We consistently have  
11 recognized that the proper functioning of our grand jury system  
12 depends upon the secrecy of grand jury proceedings."). The purposes  
13 of grand jury secrecy are enumerated in Douglas Oil and include  
14 "insur[ing] the utmost freedom to the grand jury in its  
15 deliberations" and "encourag[ing] free and untrammelled disclosures by  
16 persons who have information with respect to the commission of  
17 crimes." 441 U.S. at 219 n.10 (citing United States v. Procter &  
18 Gamble Co., 356 U.S. 677, 681-682 n.6 (1958)).

19 Before a court may order the disclosure of grand jury material,  
20 a defendant must first "show[] that a ground may exist to dismiss the  
21 indictment because of a matter that occurred before the grand jury."  
22 Fed.R.Crim.P. 6(e)(3)(E)(ii). This requires a defendant to  
23 demonstrate a strong showing of a "particularized need" or  
24 "compelling necessity" for disclosure which outweighs the policy of  
25 grand jury secrecy. Fed.R.Crim.P. 6(e); Douglas Oil Co. v. Petrol  
26 Stops Northwest, 441 U.S. 211, 218-22 (1979); United States v. Sells  
27 Engineering, Inc., 463 U.S. 418, 443 (1983). The particularized need  
28 standard is sufficiently met when the parties show "the material they

1 seek is needed to avoid a possible injustice in another judicial  
2 proceeding, that the need for disclosure is greater than the need for  
3 continued secrecy, and that their request is structured to cover only  
4 material so needed." Douglas Oil Co., 441 U.S. at 222. Put simply,  
5 Rule 6(e) "is not an invitation to engage in a fishing expedition to  
6 search for grand jury wrongdoing and abuse when there are no grounds  
7 to believe that any wrongdoing or abuse has occurred." United States  
8 v. Loc Tien Nguyen, 314 F. Supp. 2d 612, 616 (E.D. Va. 2004).

9 Indeed, the Ninth Circuit has explicitly cautioned district courts  
10 against "allowing across the board fishing expeditions" into grand  
11 jury transcripts. United States v. Kim, 577 F.2d 473, 478 (9th Cir.  
12 1978).

13 Defendant's request in this case is a fishing expedition.  
14 Defendant has failed to make any actual factual allegations that  
15 would support a particularized need for grand jury transcripts.  
16 Consequently, his request should be denied.

#### 17 **IV. CONCLUSION**

18 For the reasons outlined above, the government respectfully  
19 requests that the Court deny defendant's Motion to Compel.  
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